

Testimony of
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New York Mercantile Exchange, Inc.
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Good Morning. Thank you, Mr. Chairman and members of the committee for inviting me to participate in today's hearing on the preparedness of the financial services sector in a post 9/11 environment. The subject matter is of an ongoing concern and engaging these issues head-on is an important tool in a set of responsible business practices for both private industry and government alike. I sincerely welcome the opportunity to express what the New York Mercantile Exchange (NYMEX) has accomplished to date.

Introduction

The Exchange is the world's largest physical commodity futures exchange and has been an example of market integrity and price transparency throughout its 133-year history. The Exchange also plays a vital role in the commercial, civic, and cultural life of New York. It provides thousands of jobs in the financial services and allied industries, and through the Charitable Foundation supports cultural and social service programs in the downtown community of New York, throughout the tri-state area where our traders and staff live, in Washington, D.C. and Houston.

The business continuity planning process requires commitment from management and the ability to foresee various contingencies. Our leading role in the energy and metals markets demands that we take steps to ensure that our price discovery and formation mechanisms will continue to be available in the event of an emergency affecting our operations. NYMEX has a proven track record

that demonstrates its dedication to ensuring that we can provide our services even in the face of extreme adversity. We are not satisfied, however, to rest on the successes of past performance. As such, we continually analyze and improve our business continuity plans.

The Exchange's emergency preparedness may be broken down into several distinct but integrated categories: a) Business continuity planning, b) the more narrowly-focused practice of disaster recovery planning, c) the education of the critical staff responsible for our emergency preparedness, and finally, d) the Exchange's external efforts, including coordinated industry-wide testing and providing valuable feedback to government and industry agencies.

Preparedness planning cannot be accomplished without first carefully analyzing the business being protected. It is of critical importance to understand what processes make up our business. Once these are identified they must be prioritized by assessing the risks and possible impact of those risks.

Business Continuity

The Exchange's business is comprised of many different process groupings, each of which requires a particular expertise. These business units are each assigned a staff member who acts as a Business Continuity Coordinator (BCC) whose responsibilities include assessing the critical processes and creating a workable recovery plan. The BCC is an individual with experience in the procedures of their specific business unit. The duties of each continuity coordinator are in addition to the primary responsibilities of his job. Each BCC is responsible for deploying one of several plan modules. These modules are separate, but coordinated plans, which may be deployed all at once or separately as emergency requires.

Tactical decisions rest with the Emergency Operations Team (EOT), which is comprised of the BCCs and the Business Continuity Leader (BCL). The BCL's role is to coordinate the Exchange's continuity and disaster recovery efforts, lead the EOT, and report to the Crisis Management Team.

During an emergency the high-level strategic decision-making authority rests with the Crisis Management Team (CMT). The CMT is comprised of the members of the NYMEX board of directors' executive committee and critical senior executives. Their role is to assess a threat and, if necessary, provide an official declaration of a disaster, communicate with the members of the Exchange, and coordinate with industry and regulatory agencies. The crisis management team is empowered by the Board of Directors to make the critical business decisions necessary in any emergency recovery effort.

NYMEX's core business is commodity futures trading and clearing. In order to ensure the continuity of this business, we have developed several alternative continuity plans. The Exchange headquarters was designed to be as redundant as possible including the availability of a back-up generator, which was critical during the 9/11 terrorist attacks and the blackout of August 2003.

One of the first priorities for the Exchange after recovering from September 11 was to build a completely redundant replica trading facility. This facility, which was completed in January 2003, is located outside the city and is a reasonable commute for our staff and traders. It contains fully operational trading rings, telephone workstations and booths, and administrative space. It also has the ability to disseminate price data worldwide and is a completely redundant data center housing all critical Exchange IT systems. All of our traders and key employees have been provided with directions to the site and many of our traders have participated in a mock trading simulation at the site.

In a situation where access to the trading facility in lower Manhattan or the back up site would not be immediately available, the Exchange also has two electronic trading systems, NYMEX ACCESS® and NYMEX ClearPortsm, both of which have 24-hour trading capability. In fact, we were the first exchange in New York to reopen following September 11. Although it was preferred that trading resume via open outcry, it was apparent that the quickest way to reopen the markets would be through NYMEX ACCESS®, despite the destruction of the proprietary communications circuits in the

collapse of the Twin Towers. An ambitious technology upgrade to shift NYMEX ACCESS® to the internet had been underway since the spring of 2001. The project was almost complete, although issues of connectivity, security, and software compatibility needed to be resolved.

Testing that was initially expected to take two weeks was accomplished in a day-and-a-half following 9/11.

The Exchange was the first New York financial market to reopen when the new system went live on Friday, September 14. The initial energy and metals trading session was just two hours long, but the pent-up demand for trading services resulted in then record electronic volume of nearly 70,000 contracts. This volume was nearly *eight* times the average daily volume of a regular 16-hour electronic trading session at that time.

Emergency Preparedness

In the event of an emergency it is necessary to have a safe and secure place for the teams to assemble and manage recovery efforts and coordinate resources. The Exchange maintains Emergency Operations Centers (EOC) at both the primary and backup sites. Should an emergency affect the primary site only, an additional temporary location has been made available through a local community relationship. Each location is prepared with cable TV service, whiteboards, copies of the CMT plans, computers, as well as digital and analog phone service.

Maintaining communication is the single most important aspect of any emergency recovery effort. All aspects of our emergency operations are choreographed via multiple communications links between resources and the Exchange's responders, and are coordinated and managed using a wide-array of communications tools. Continuity planners must envision and plan for emergencies that disable telecommunications, utilities, transportation, other infrastructure service, vendors, and customers.

The Exchange provides multiple layers of tools, in the event one or more fails. Each critical CMT member has been issued a cell phone with a two-way radio, a portable two-way email device - some of which can also be used to make emergency phone calls, a laptop, remote connection software to send and receive data to our network, and a cellular modem card to wirelessly connect to Exchange system resources from anywhere cellular coverage is available. Also available are multiple team-specific conference call numbers, which enable the team to conduct virtual meetings; websites to communicate information to customers, staff and members; and toll-free hotlines to receive and provide critical information. In addition, the CFTC has sponsored the Exchange to take advantage of the National Communications System's Government Emergency Telecommunications Service (GETS). All critical team members have been issued this important tool.

Disaster Recovery

Disaster recovery planning also specifically refers to restoring the information technologies that run our business and provide services to staff and customers. Every critical Exchange system is duplicated and can provide services in the event the main facility or system is unavailable. Data moves across redundant fiber optic links, linking our backup site to the primary site, and allows bidirectional synchronous or asynchronous replication of data. In addition to the wide-area network created between the two hot-sites, the Exchange maintains multiple links to internet service providers.

No planner can accurately predict emergencies they may face or the constantly changing effects generated from a disaster. We must provide multiple ways for our team members and critical staff to communicate during an emergency. Providing good communication tools and alternates allows our organization to respond to any problem encountered and also provides the critical ability to change course as the emergency response requires and to immediately communicate those changes to the Exchange community.

The Exchange information technology systems form the underpinnings of our ability to recover the services we provide to the marketplace in a timely fashion. As new systems are deployed at NYMEX, fault tolerant, distributed, active-active, and advanced replication technologies are used to help ensure that we can provide these services in the most adverse environments. We have recently completed projects to replicate our storage area network to provide real-time duplication of critical back-office information to the disaster recovery site, making this information immediately available both locally and remotely. We are preparing to roll-out an upgrade to our Virtual Private Network (VPN) system allowing remote control of systems and access to information from the distributed remote offices. We have completed a project deploying Digital Access Cross Connect (DACS) equipment in our disaster recovery site, which will enable us to instantly and remotely transfer dial tone and private lines from our primary site to our backup site, utilizing our dark fiber network.

Continuation of our training, education, and awareness program and quarterly testing ensures that the systems and staff are ready to respond to a disruptive event. The EOT meets regularly via a dedicated conference call bridge to discuss continuity planning, updates, and changes in business processes. Regular awareness meetings are conducted with the CMT for retraining and table-top exercises.

Testing

In September 2004, NYMEX testified before the House Financial Services Committee hearing on the emergency preparedness of the financial services sector. We have since participated in the TopOff III exercise sponsored by the U.S. Department of Homeland Security, which was designed to test the readiness of first responders, federal, state, and local emergency managers, along with key infrastructure components such as hospitals and transportation networks. The securities industry component of the TopOff III exercise involved the SEC, the U.S. Treasury Department, exchanges,

and trade organizations such as the Securities Industry Association, Bond Market Association, and the Futures Industry Association (FIA).

In addition, in October 2004, NYMEX, the FIA, other leading futures exchanges and clearing firms successfully completed the first ever industry-wide disaster recovery test. The test scope has expanded in 2005 to include market data vendors. This industry-wide disaster recovery test has become an annual event and is scheduled for October 15.

Industry and Government Coordination

The Exchange is among the leaders in an industry-wide initiative to standardize the protocols governing the way companies send and receive data. This will help many companies develop systems based on standardized specifications, making it easier to deploy and maintain data communications internally and externally under challenging circumstances.

Our industry relies on a complicated inter-relationship of many companies and services. Successful recovery of the financial services sector depends on the quality and thoroughness of extensive planning efforts across many inter-dependent industries. NYMEX uses opportunities such as the futures industry test to go beyond its business boundaries and work together with a wide-array of outside parties to effect communications and business continuity awareness.

Another area we have taken advantage of is information sharing alliances. The Financial Services Information Sharing Analysis Center (FS-ISAC) is a source of critical information ranging from information security alerts to homeland security threat analysis. The New York City Office of Emergency Management is another source of information for New York-based companies. This information is critical for the constant monitoring of potential disruptive events.

Conclusion

NYMEX has a global presence. The Exchange's energy and metals futures markets provide benchmark pricing information that is used worldwide. NYMEX recently opened an exchange in London and signed a joint venture agreement with the Dubai Development Investment Authority (DDIA). The Exchange must be cognizant of world events.

NYMEX views continuity planning as an on-going project that is necessary to meet critical business needs and has incorporated this planning into its day-to-day operations. Every project, system, or business process deployed incorporates some form of continuity planning.

Risk and impact analysis, training, disaster recovery testing, and regular meetings with critical staff create a sense of awareness throughout the company; business continuity planning has become part of the NYMEX business fabric.

We strive to learn from past experience. The 9/11 terrorist attacks, the 2003 blackout, our mock disaster testing, and planning for the 2004 Republican National Convention have helped us prepare for the future. This year as we were finalizing preparations for the launch of the London trading floor, we activated our emergency teams as a response to the July 2005 transportation bombings in London. We are currently following important developments in the Gulf Coast region as our nation struggles with the catastrophic damage caused by hurricane Katrina. Monitoring such disruptive events helps us to adjust and improve our planning accordingly.

Government agencies are of critical importance in planning for and providing support during an emergency. The relationships the Exchange has developed with important government leaders has enabled us to overcome many difficult recovery challenges. In the immediate aftermath of 9/11 we received significant assistance from the federal, state, and city governments.

This year NYMEX has taken advantage of the Business Network of Emergency Resources (BNet) Corporate Emergency Access System - a joint effort between local government emergency planners and private business. BNet provides a special access card that allows a limited number of key critical staff into restricted areas for the express purpose of sustaining crucial business operations.

The Exchange appreciates being invited to participate in these importance discussions. Further efforts to improve communication with our government will only strengthen the ability of the nation and the financial markets to respond to the challenges that lay ahead.

Large scale emergencies similar to those that have occurred in the past are inevitable. Continuity planning is not an individual task, but must be faced by all involved participants in the financial services sector.

I would like to thank the Chairman and the members of this committee for holding this hearing and inviting NYMEX to discuss this extremely important topic.